59

FILED
JUN 21 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

(3)

No. 06 - 1303

IN THE
SUPREME COURT OF THE UNITED STATES

Marie K. Yanna - Trombley
Plaintiff, pro se,
Petitioner

v.

Saturn Corporation
(Subsidiary of General Motors Corp.)
Respondent

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

PETITION FOR REHEARING

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PETITION FOR REHEARING

Pursuant to U.S. Supreme Court Rule 44.2, petitioner Marie K. Yanna- Trombley, Pro Se respectfully petitions the Court for rehearing of its denial of Petition for a Writ of Certiorari issued May 29, 2007.

The circumstanced described in the Petition for a Writ of Certiorari and in this petition for rehearing of its denial of Petition for a Writ of Certiorari are sufficient to warrant the full Court making a review of the case and of the lower court's actions. Grounds for the petition are:

II. GROUNDS OF SUBSTATIAL EFFECT.

A. The Supreme Court Rule 10 seemingly allows the lower courts to misapply Federal Rules of Civil Procedure

because "A petition for a writ of certiorari is rarely granted when the asserted error consists ..... the misapplication of properly stated rule of law", U.S. Supreme Court Rule 10.

> Fed. R. Civ. P. 1, Scope And Purpose Of Rules.
> These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in Rule 81. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.

Because the Lower Courts misapplied the Federal Civil Rules Of Procedure, my right to a trial was unjustly taken away.

B. The Supreme Court Rule 10 seemingly allows the lower courts to change the facts of the case

because according to U.S. Supreme Court Rule 10 , "A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings..", U.S. Supreme Court Rule 10.

As defined in Black's Law Dictionary precedent is a prior case or decision of a court which can be used to furnish an authority in a following case based on identical or similar question of law, or similar facts.[1]

In determining whether to award summary judgment, the court must view the evidence in the light most favorable to the nonmoving party, drawing all reasonable inferences in favor of the nonmoving party. *Staples v. CBL & Assocs.*, 15 S. W. 3d 83, 89 (Tenn. 2000). I, Marie Yanna- Trombley, am the summary judgment nonmoving party. The Standard for Reversal For Fact Finding is Clearly Erroneous. I have presented sufficient relative evidence showing that the lower court decisions are based on erroneous findings and lacks legal reasoning.

---

[1] CJA Appeals - Federal Court

III. GROUNDS OF CONTROLING EFFECT.

A Lower court allowed to withhold relevant evidence from reviewing court.

The lower court states that I did have proof but the court did not described what proof I had into evidence. In effect lower Courts are being allowed to ignore evidence of Saturn/GM. 's guilt thereby stopping the proof from reaching a jury. See Appendix of exhibits 72a, Affidavit of Marie Yanna-Trombley 74a and Plaintiff's disputed facts 18a and 24a.

Fed. R. Civ. P. 5, (e) Filing With the Court Defined. The Clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices.

Fed. R. Civ. P. 79, Books And Records Kept By The Clerk And Entries Therein (a) Civil Docket.....All papers filed with the clerk, all process issued and returns made thereon, all appearances, orders, verdicts, and judgments shall be entered chronologically in the civil docket on the folio assigned to the action and shall be marked with its file number. these entries shall be brief but shall show the nature of each paper filed or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process.

Because Clerk did not properly enter in to the docket my Response to Saturn Corp Statement Of Undisputed Facts, the Court did not consider my opposition to Summary Judgment. My response in opposition to Saturn/GM are hid in the docket as Response By Pltf to stmt [50] " by these entries shall be brief but shall show the nature of each paper filed" Fed. R. Civ. P. 79.

The judges function at summary judgment stage is not to judge if one side or the other is telling the truth but whether the evidence presents sufficient disagreement that a jury could find for the nonmoving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986).
see 74a and Plaintiff's disputed facts 24a.

B. Lower court allowed to change the nature of the case.

Federal District Court Clerk for the Middle District of Tennessee did not enter into the docket document (s) I submitted to be filed concerning the real location of my sworn Affidavit Numerous time I had to spend time trying to keep the docket correct.

Because the Clerk did not properly enter in to the docket my Affidavit in Opposition To Saturn Corporations Motion for Summary Judgment the Court did not consider my opposition to Summary Judgment.

My motion to modify the case management order and to set a further case management conference was granted by the Honorable Judge Higgins, however a date was not set and I was denied a case management conference with opposing counsel, see 69a.

C. Denied my Constitutional Rights to Procedural Due Process, Right to a fair hearing, Right to have Jury Trial and Right to my property . . . . . .

The Appellate Court did not make a legal and proper review of Trombley's Retaliation Claim and/or the Intentional Discrimination Claim . Because Appellate Court looked over the fact that my prior law suit against Saturn/GM was a Title VII Federal lawsuit. This case here is a lawsuit base upon Saturn/GM retaliating against me because of my prior Title VII law suit against Saturn/GM.

Because the District Court Clerk did not send my evidence to the reviewing court as order by the Judge , in effect Yanna-Trombley did not receive legal review of her case, see Record Transfer Log 70a , 71a and Order denying disputed facts to be transmitted 18a.

Because the lower courts did not have before them Yanna-Trombley's exhibits and/or opposition to summary judgment and only had the Saturn/GM, motion for summary judgment, the lower court erroneously based it's decision only on Saturn/GM's motion for summary judgment .

Not anywhere in the memorandums of the lower court (s) is the mention of Marie Yanna- Trombley's affidavit, disputed facts or her exhibits. The Appeal Court could not possibly had made a legal review of Yanna-Trombley's Appeal. See 18a, 24a and 18a.

In effect the lower courts successfully created pandemonium of erroneous factual findings and did not follow controlling precedent. It also appears that Saturn/G.M. is being allowed to take my earned wages from my bank account and Saturn/GM is not be held accountable for not paying me my earned wages.

Because the Court did not address or decide the issue of Management Dave Salima hanging up the phone on me Marie Yanna- Trombley as I tried to dial 911 this becomes an issue of most important to pubic interest, safety and well being.

The memorandum itself presents sufficient disagreement to require a submission to a jury by bringing forth factual finding of physical contact. And because Summary judgment was not warranted when the Appellate Court found disputed facts.

IV. GROUNDS NOT PREVIOUSLY PRESENTED

A. My Exhaustion of Domestic Remedies.

To exhaust Domestic Remedies is the requirement in international human rights law . That an aggrieved party must first exhaust all available legal remedies at the national level before applying for remedies to an international or

regional body.[2]

Because of the seriousness of the circumstances and the interest of public awareness and women's rights in the work place rehearing is warranted. I was kept from receiving help from Maury County Police Department when I was assaulted by Saturn Corp /G. M. Supervisor.

B Denied my basic human rights to be free of retaliation because of exerting my Title VII rights.

This Petition needs to be granted to show the large corporations that they will be held accountable for their illegal actions and that women do have rights in the work place . That women have the right to call 911. That a woman has the right to receive a paycheck and not be afraid to make a complaint and have her pay check taken away from her, or her hands slapped away from the phone by supervisor. Or have the phone hung up on her by her manager while she tries to dial 911, That an un sworn Declaration may contain lies and false accusations, and the Plaintiff has a right to defend herself from such accusations. ....the credibility of the declarant may be attacked,.... Rule 806.

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[2] Law 101 An introduction to Domestic and International Legal Terms - © 2005 Center for Reproductive Rights

C. Domestic and International Public Interest.

I had the right to call 911 when my hands were being was slapped away from the phone by a male Saturn supervisor; this affects women's rights in the work place. Since the District Court and Appellate Court choose to ignore and failed to acknowledge this important issue of public interest woman in the work place will continually be denied the existence worthy of human dignity, and social protection. Everyone has the right to life. liberty and security of person .see Universal Declaration of Human Rights Preamble Article 3, 77a.

D. There does not exist independent and adequate stated grounds that justify the lower court (s) decision.

The lower court based the finding only on Saturn/GM. hearsay evidence after I have presented overwhelming relative evidence of Saturn/GM. 's fault of Intentional Retaliation and their use of fraudulent documents; see Fed. R. Civ. P. 806.

By Statute a party aggrieved by the final judgment of the United States District court has a right to appeal to the United States Court of Appeals. However, these days, the great majority of the opinions handed down by the federal appeals courts are marked "Not To Be Published. Generally they are not carefully analyzed as are the published opinions. In many cases the decision is based on facts inaccurately stated, sometimes fabricated and do not

follow the controlling precedent. It is not unusual for a judge's law clerk to write these opinions. [3]

V. CONCLUSION

By allowing the lower courts to change the facts, and misapply the very rules that allows me to have my constitutional right to a jury , is sending a message to all Corporations in America saying " its ok to slap your employees, hang up the phone on them, stop them from getting help from the police denying them just and favorable conditions of work " And by all means slander them, degrade them, take away their dignity and lets not forget to take away their earned wages on top of that.

In *NLRB v. Washington Aluminum Co.* (U.S. 1962) seven employees left work without permission to protest the cold temperature in their shop. The walk out was held to fall within § 7 of the National Labor Relations Act (NLRA)

I left and went to the Police and was terminated for this action. see Supplemental Appendix 57a

Is Saturn/GM receiving special treatment because of their celebrity status?

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[3] CJA Appeals - Federal Court
http://www.judicialaccountability.org/appealsfederalxourt.htm

VI. CLOSING

I, Marie K. Yanna Trombley pro se, respectfully request that this honorable United States Supreme Court grant my Petition for Writ of Certiorari and/or Order for this case to be set for jury trial.

Respectfully submitted ; June 21, 2007

Marie K. Yanna- Trombley - ph. 931 270-9688
1090 Spring Place Road ,
Lewisburg , Tennessee , 37091

No. 05-6419

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Marie K. Yanna- Trombley, prose Plaintiff- Appellant
v. Saturn Corporation Subsidiary of General Motors Corp.,
Defendant - Appellee.

On Appeal from the United States District Court for the
Middle District of Tennessee, Columbia Division

Brief for Marie D. Yanna- Trombley Pro-se Appellant
urging reversal in support of Appellant

Marie K. Yanna- Trombley
Pro-Se Appellant
1090 Spring Place Road
Lewisburg, Tennessee, 37091

.....

On April 26, 2005 the Honorable Judge Higgins transferred the case to the Honorable Judge Haynes, Docket 67. On July 15, 2005 an order granting # 33 for Saturn Corporation to file a Corporate Disclosure Statement, Docket 70 and an order granting # 42 Motion to Amend Complaint, Docket 73. Saturn corporation's Motion for Summary Judgment was granted and the action was dismissed with prejudice entered August 31. 2005 docket 75. Ms. Trombley filed a timely Notice of Appeal on September 9, 2005, Docket 76.

.....

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4. What action do you want the Court to take in this case?

Appellant Ms Trombley ask for mitigation with Appellee Saturn Corporation ....

5. What specific issues do you wish to raise on appeal/

Whether the court erred by citing Fed. R. Civ. P. 56 (d) when there was no motion or hearing as described in Fed. R. Civ. P. 56 (d) and facts that exist with substantial controversy? ....

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FILED
2004 SEP 27 PM 1: 09
U.S. DISTRICT COURT
MIDDLE DISTRICT OF TN

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNNESSEE COLUMBIS DIVISION

MARIE K. YANNA-TROMBLEY,
Vs.
SATURN CORPORATION

) CASE No. 1-04-0026
) Judge Thomas A. Higgins
) Magistrate Judge Knowles
) Jury Demand

MOTION TO REQUEST THAT THE CASE MANAGEMENT JUDGE MODIFY THE CASE MANAGEMENT ORDER AND TO SET CASE MANAGEMENT CONFERENCE WITH CASE MANAGEMENT JUDGE.

Come now Plaintiff, Marie K. Yanna Trombley, Pro Se and respectfully request that the honorable case management judge modify the case management judge set a case management conference with the honorable case management judge for reasons of unusual circumstances;.....

09/27/2004 16 Motion by Pltf that the case management judge modify the case management order and to set case management conference with case management judge (w/attachment) (km) (Entered: 09/27/2004)

10/20/2004 24 ORDER by Judge Thomas A. Higgins:.....; Motion to modify the case management order and to set a further case management conference [16-1] is granted; Case Management order [7-1] entered 6/8/04, is vacated. All issues related to the .....(EOD 10/21/04) (cc: all counsel) (km) (Entered: 10/21/2004)

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RE: YANNA-TROMBLEY V. SATURN CORP.

COURT OF APPEALS NO. 05-6419

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FILED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF TENN
MAR 25 2005
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FOR THE MIDDLE DISTRICT OF TENNNESSEE
COLUMBIA DIVISION
MARIE K. YANNA-TROMBLEY. Plaintiff, pro se

Vs.

SATURN CORPORATION (Subsidiary of General Motors Corp. Defendant

)
) CASE No. 1- 04- 0026
) Judge Thomas A Higgins
) Magistrate Judge Knowles
) Jury Demand
)

APPENDIX TO PLAINTIFF'S MEMORANDUM OF POINTS AND ATHORITIS IN SUPORT OF PLAINTIFF'S RESPONS TO OPPOSE DEFENDANT SATURN CORPORATION'S MOTION FOR SUMMARY JUDGMENT; .....

Book one of two bound books of Plaintiff exhibits, starting at tab "A" including and ending at tab "R" then continued in book two starting at tab "S" including and ending at tab "29".

.....

Exhibit # 62 Affidavit of Marie Yanna- Trombley. I

.....

3 of 11 pages

Tab I

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNNESSEE
COLUMBIA DIVISION
MARIE K. YANNA-TROMBLEY. Plaintiff, pro se

Vs.

SATURN CORPORATION (Subsidiary of General Motors Corp. Defendant

)
) CASE No. 1- 04- 0026

) Judge Thomas A Higgins
) Magistrate Judge Knowles
) Jury Demand
)

AFFIDAVIT OFMARIE K. YANNA- TROMBLEY IN SUPPORT OF MOTION TO OPPOSE DEFENDANT SATURN CJORPORATION;S MOTION FOR SUMMERY JUDGEMENT.

The affiant, Marie Yanna-Trombley pro-se plaintiff, case No. 1-04-0026, having been duly sworn according to law, deposes and says as follows:.....

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29. ..... After lunch Robert Erwin relieved me and I went over to the phone located on the I- beam pole to make a call to prepare and research in order to uphold my civil rights on signing documents; especially after Dave Solima saying it was a legal document, and he did not want my initials on the Job Aide form.

30. A hand came out of no where and slapped down the receiver and my eyes followed a long arm up over my right shoulder. I turned to see Dave Solima towering over me and he frightened me and I screamed.....

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I tried to redial my husband back, but Mr. Solima repeatedly slapped my hand away. At this point I told Dave I needed to call the Police. Mr. Solima continued to slap my hand away and kept me from redialing and then he took the phone away from me. Not only was I frightened but I now feared for my safety..... I walked to my locker and got my book and bag....I went back to the phone and dialed 9 for an outside line then 911 and again Dave Solima came over hung up the receiver and slapped my hand away....

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41. I tried to return to work on September 23, 2003 after a reproved day off and an 2 hour E- Vac. (See exhibit 30 A) and was stopped at the Saturn South gate entrance and was told that I was restricted from entering the property. As my husband and I started to leave we had a security vehicle pull into our path and we quickly became surrounded by Saturn security vehicles.

.....

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58. I believe I was not paid my last pay check or the reason that Saturn /GM withdrew my last check was because I went to court and was a witness against Saturn Supervisor Dave Solima for Assault. Defendant cannot show where Plaintiff's money has went but has sent a ledger that shows

the withdrawal of monies but not why it was with withdrawn. See band statement - exhibit 5D, Police report- exhibit 32 B and Brand Jury- exhibit 32D.

.....

.....

I swear or affirm that the information given above is true and correct to the best of my knowledge, information and belief.

"s/ Marie Yanna-Trombley" 3- 23- 05
Marie Yanna-Trombley DATE

Subscribed to and sworn to before me this March 23, 2005

"s/ Joan Thompson" My commission expires on 6-6-05
Notary Public
State of TN.
County of Marshall

Universal Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Where as Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights

and freedoms is of the greatest importance for the full realization of this pledge,

Article 3. Everyone has the right to life. liberty and security of person .

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary by other means of social protection.

CERTIFICATE OF COUNSEL

Pursuant to Supreme Court Rule 44.2 , petitioner Marie k. Yanna- Trombley, Pro Se presents this Certificate of Counsel for Petition for Rehearing. This Petition for Rehearing is restricted to the grounds specified in Supreme Court Rule 44.2. The grounds are of an intervening circumstances of a substantial or controlling effect and substantial grounds not previously presented. This Petition for Rehearing is presented in good faith and not for delay.

I swear or affirm that the information given above is true and correct to the best of my knowledge , information and belief.

Marie Yanna-Trombley — DATE 6-21-07

Subscribed to and sworn to before me this date 6-21-07

Mona K. Klarer My commission expires on 5-2-09

Notary Public

MONA K. KLARER STATE OF TENNESSEE NOTARY PUBLIC MARSHALL COUNTY

Respectfully submitted ;

Marie K. Yanna- Trombley , ph. 931 270-9688
1090 Spring Place Road ,
Lewisburg , Tennessee , 37091